

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
v.)	DOCKET NO.: 06-10427
)	
JEFFREY SHIELDS)	
)	
UNITED STATES OF AMERICA)	
)	
v.)	DOCKET NO.: 06-10439
)	
JOEL WETMORE)	
)	
UNITED STATES OF AMERICA)	
)	
v.)	DOCKET NO.: 06-10449
)	
CHARLES PEAVY)	
)	

DEFENDANTS' MOTION TO DISMISS

Defendants respectfully move to dismiss the commitment proceedings in the above-captioned matters. In support of this motion, defendants assert that the Jimmy Ryce Civil Commitment Program (hereinafter "the Act"), enacted as part of the Adam Walsh Child Protection and Safety Act of 2006¹ and codified at Title 18, Sections 4247 and 4248, is unconstitutional for the following reasons:

- I. The Act exceeds Congress' authority under Article I, Section 8 and is inconsistent with the Tenth Amendment;
- II. The Act denies defendants equal protection of the laws;

¹ 42 U.S.C. § 16901, et. seq.

- III. The Act subjects defendants to criminal proceedings without providing required constitutional protections;
- IV. The Act denies defendants due process of law by failing to provide necessary procedural protections;
- V. The Act denies defendants due process of law and illegitimately delegates legislative authority by failing to adequately define key terms; and
- VI. The Act denies defendants due process of law because the expert testimony it requires is insufficiently reliable to provide the clear and convincing evidence needed for commitment as a sexually dangerous person.

____ See attached Memorandum of Law, Affidavit of Daniel Kriegman, Ph.D., and Exhibits 1-12.

Accordingly, the commitment proceedings should be dismissed.

JEFFREY SHIELDS
JOEL WETMORE
CHARLES PEAVY
By their attorneys,

/s/ Page Kelley

Page Kelley
B.B.O. #548237
William Fick
B.B.O. #650562
Judith Mizner
B.B.O. #350160
Federal Defender Office
408 Atlantic Avenue, 3rd Floor
Boston, MA 02110
Tel: 617-223-8061

/s/ John Swomley

John Swomley
B.B.O. #551450
Swomley & Associates
227 Lewis Wharf
Boston, MA 02110
Tel: 617-227-9443

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on May 16, 2007.

/s/ Page Kelley
Page Kelley